



Attorney's Docket No: LeA 36197

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Haning, et al.

Serial No.: 10/519,129

Filed: 22 December 2004

For: Novel Use of Imidazotriazinones

**MAIL STOP PCT
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450**


CERTIFICATE OF FIRST CLASS MAILING UNDER 37 CFR 1.8

I hereby certify that the *attached* correspondence comprising:

- ☒ Response to Decision on Petition Under 37 CFR 1.497(d);
- ☒ Statement Under 37 CFR 3.73(b);
- ☒ Consent of Assignee;
- ☒ Petition for 1 month extension of time;
- ☒ Return Receipt Post Card.

is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

15 December 2006
Date


Signature of Person Certifying / William F. Gray



Docket No.: LeA 36197[66821(62873(52329))]
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Haning, et al.

Application No.: **10/519,129**

Confirmation No.: **N/A**

Filed: **December 22, 2004**

For: **NOVEL USE OF IMIDAZOTRIAZINONES**

Attorney Advisor: **Derek A. Putonen**

RESPONSE TO DECISION ON PETITION
UNDER 37 CFR 1.497(d)

MS PCT
Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On July 29, 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) to Applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and surcharge under 37 CFR 1.492(e) were required.

On September 26, 2005, Applicants filed a response to the Notification of Missing Requirements Under 35 U.S.C. 371 accompanied by the original Combined Declaration and Power of Attorney, and surcharge fee for late filing of original declaration or oath (37 C.F.R. 1.492(e)). In addition, in regard to the deceased inventor, Ulrich Niewöhner, Applicants also provided a copy of a Certificate of Inheritance, provided by the Local Court of Wermelskirchen, stating that Maria Theresia Niewöhner is the sole heir of Ulrich Niewöhner, and an English translation of the Certificate of Inheritance as well as a declaration from the technical translator.



On February 13, 2006, the United States Designated/Elected Office mailed a Decision on Papers under 37 CFR 1.42 stating that the declaration filed on September 28, 2005 does not list the inventorship set forth in the international application. The international application identifies Maria Niewöhner as an inventor while the declaration identifies her as "heiress" rather as an inventor.

On August 14, 2006, Applicants filed a response to the Decision on Papers under 37 CFR 1.42 accompanied by a Statement from Maria Theresia Niewöhner stating that she was named in error without any deceptive intent on her part; a copy of the response submitted on September 26, 2005; and the fee required by 37 CFR 1.17(i).

On September 15, 2006, the United States Designated/Elected Office mailed a Decision on Petition under 37 CFR 1.497(d) stating that the response filed on August 14, 2006 was being treated as a request under 37 CFR 1.497(d) and that said request satisfied the requirements of a statement from the person being deleted as an inventor without deceptive intention [(d)(1)], the fee [(d)(2)] and a new oath or declaration [(d)(4)]. Nevertheless, the Decision stated that the request failed to satisfy 37 CFR 1.497(d)(3) requiring a statement from the assignee consenting to the deletion of Ms. Niewohner. The Decision also stated that no additional petition fee was required in responding to the Decision.

In response to the Decision on Petition, Applicants respectfully submit a Statement of Consent Of Assignee To Change Of Inventorship In Patent Application signed by Dr. Jörg Thomaier and Dr. Dieter Linkenheil on behalf of Bayer Healthcare AG and a statement under 37 CFR 3.73(b), establishing the right of Bayer Healthcare AG to take action in this case. Copies of the documents submitted on August 14, 2006 and September 26, 2005 have been provided.

REQUEST FOR EXTENSION OF TIME AND PAYMENT OF FEES

Applicants respectfully petition the Commissioner for Patents under the provisions of 37 CFR. 1.136(a) to extend the time for filing a response for one (1) month from November 15, 2006 to December 15, 2006. Please charge the fee for the four-month extension of time to

Deposit Account No. 13-3372. If a fee is required for an extension of time not accounted for, such an extension is requested and the fee should also be charged to undersigned's deposit account. The Commissioner is also authorized to charge any additional fees, any underpayment of fees, and credit any overpayment to the above deposit account. Applicants have provided a Fee Transmittal (PTO/SB/17) induplicate.

Respectfully submitted,

Date: December 15, 2006

William F. Gray